

TRIPURA GAZETTE



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PART--I-- Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA
LAW DEPARTMENT
Secretariat : Agartala

F.NO.5(1)-LAW/LR-I/2017/4845-67

Dated, Agartala, the 4th July, 2020.

NOTIFICATION

Subject:- Standard Operating Procedure (SOP) for dealing with matters relating to judgments/orders passed by the courts with a view to taking expeditious decision by Govt. on preferring appeal/revision/review within stipulated/limitation period—Guidelines for all concerned Nodal Officers (Legal), Nodal Staffs and appointed lawyers and the authorities concerned.

Whereas, in recent past several instances have come to notice of the State Govt. where appeal/revision/review against judgments/orders of courts, particularly of the Hon'ble High Court have become time barred for not processing the file in time or with expedition in the concerned department for taking decision with regard to preferring appeal, revision, review or towards compliance of such judgment/order or direction contained therein resulting into invitation of contempt proceedings.

AND

Whereas, the limitation period for filing first appeal is only 30 days from the date of judgment/order extended by the time taken for obtaining certified copy but, unfortunately, in many cases appeals become time barred without satisfactory & proper explanation;

AND

Whereas, a register of cases and case diary are required to be maintained by the all Nodal Officers (Legal) of each department or organization regularly updating the same mentioning particulars of each case indicating date of disposal & results;

AND

Whereas, the concerned Nodal Officers (Legal) are required to examine/check as regards cases disposed of against the Govt./PSU/Govt. organization whether appeal/revision etc. Has been filed and what are the stages of such cases;

AND

Whereas, it is the duty of the Govt. Advocate/Lawyer to keep the Legal Remembrancer (L.R.), Govt. of Tripura informed about the important development in the case from time to time and when the judgment has been pronounced, the Govt. Advocate/engaged counsel shall inform the L.R. of the result of the decision by the court together with his provisional opinion about merit of the same for preferring appeal, revision or review as the case may be;

AND

Whereas, the L.R. has to examine the judgment/order and the opinion of the lawyer to decide/give his opinion/advice whether any appeal, revision etc should be filed or not;

AND

Whereas, it is recognised that good number of cases are being lost because appeals, revision are filed much beyond the period of limitation without any proper explanation for the delay or without a proper application for condonation of delay and that such delays are not always bona fide, particularly, in cases where high stakes of revenue are involved;

The State Govt., therefore, lays down the following SOP/Guidelines for all concerned for strict observance while dealing with cases involving the State Govt./PSU/Bodies or organisation owned by Govt. or having substantial stake of Govt. therein, with a view to take decision as well as filing appeal, revision etc. within limitation or for compliance of direction of the court within stipulated time:-

1. All Nodal Officers (Legal) with the assistance of Nodal Staff should obtain the certified copy of the judgment/order through the clerk of concerned Govt. Advocate/appointed lawyer of the case or directly by themselves and immediately process the file to the Law Department wherever necessary for obtaining opinion towards filing appeal/revision etc., So that the same can be preferred before expiry of the limitation period. Application for certified copy should be filed invariably within three working days of pronouncement of judgment/order.

Such steps should be taken within 5 (five) days, even before certified copy could be obtained, for taking preliminary steps like obtaining views of the Govt. Advocate conducting lawyer on the basis of downloaded printed copy of the judgment/order

(2) (i) If in any case the decision of the court goes against the Govt, the lawyer in-charge of the case shall inform the L.R. the result as well as his provisional opinion on filing appeal/revision or review within 3 (three) days of verdict.

(ii) The Nodal Officer/Administrative Department shall place the downloaded copy of the judgment/order to the L.R. within 5(five) days of the pronouncement of the judgment/order, if by that time certified copy could not be obtained; but if certified copy is obtained, then the same be placed to the L.R. along with the final opinion of the Govt. Advocate/conducting lawyer.

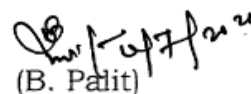
(3) The L.R. shall examine the judgment and the opinion of the Govt. Advocate/conducting lawyer to decide or advice whether any appeal/revision or review should be preferred or not, by the Govt./Department; Such advice or decision by the LR shall be taken within 7 (Seven) days of placing the file with opinion of Govt. Advocate/conducting lawyer; The decision of the Govt./Administrative Department for preferring the appeal etc. shall thereafter be taken & communicated within five days;

(4) The file with the decision of the Govt./Administrative Department shall then be placed with the Govt. Advocate, Govt. Pleader or Engaged Lawyer to prepare memo of appeal etc. within 20 (twenty days) of pronouncement of judgment/order.

(5) The draft Memo of Appeal etc. shall have to be prepared and placed within 7(seven) days of placing the file with decision of Govt. Advocate, for approval/Vetting, on obtaining of which the same be filed within limitation period.

- (6) All Departments will ensure that appeal/ revision or review against judgment / order of courts is filed within period of limitation or within time fixed for compliance whichever is earlier excepting in cases where the judgment / order has been decided to be complied with.
- (7) Every attempt must be made to reduce delays in filing appeals / applications. It shall be responsibility of each Head of Department to work out an appropriate system for elimination of delays and ensure its implementation;
- (8) The question of limitation and delay must be approached on the premise that every court is strict and rigid with regard to condonation of undue or unexplained delay and accordingly there have to be ground work and preparation to wipe out avoidable delay.
- (9) Applications for condonation of delay are presently drafted in most instances in routine manner without application of mind. This practice must be shunned. It is the responsibility of the drafting counsel to carefully draft an application, for condonation of delay, identifying the areas of delay and indentifying the causes with particularity. The Administrative Department must provide the detail date / information for the said drafting.
- (10) If at any point, any deliberate / mala fide action / inaction in causing delay in order to extend undue advantage to the adversary party of the case is found on the part of any concerned person, the authority shall take appropriate action against the erring officer / staff or other person. The interest of the State shall in such case be of paramount consideration.
- (11) The above timeline regarding filing appeal or revision etc, shall, of course, be subject to obtaining of certified copy of judgment if there is any delay in obtaining the same without any latches as or fault on the part of Nodal Officer (Legal) / Nodal staff and the concerned Administrative Department.
- (12) This is for strict compliance.
- (13) The provisions of this SOP shall be in addition to and not in derogation of the provisions of the Tripura State Litigation Policy, 2011 or any other law for the time being in force.
- (14) This is issued with immediate effect and will remain in force until further order.

By order of the Governor,


(B. Palit)

LR & Secretary, Law
Government of Tripura